PATENT
10/713,726

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	:	Group Art Unit: 2168
	:	Examiner: A. J. Sanders
Timothy A. Dietz et al.	:	
Serial No: 10/713,726	:	
Filed: 11/13/2003	:	
Title: A WORLD WIDE WEB	:	
DOCUMENT DISTRIBUTION SYSTEM	:	
WHEREIN THE HOST CREATING A	:	
WEB DOCUMENT IS ENABLED TO	:	Customer No. 25,299
ASSIGN PRIORITY LEVELS TO HY-	:	Confirmation No. 2698
PERLINKS EMBEDDED IN THE	:	
CREATED WEB DOCUMENTS	:	
Date: 07/21/08	:	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

BRIEF ON APPEAL

This is an Appeal from the Final Rejection of claims 1-11, and 17-25 of this Application dated February 21, 2008. Section VIII. Appendix containing a copy of each of the Claims is attached.

I. Real Party in Interest

The real party in interest is International Business Machines Corporation, the assignee of the present Application.

II. Related Appeals and Interferences

None

III. Status of Claims

A. TOTAL NUMBER OF CLAIMS IN APPLICATION

There are 20 claims in this Application.

B. STATUS OF ALL THE CLAIMS

1. Claims cancelled: 12-16.
2. Claims withdrawn from consideration but not cancelled: none.
3. Claims pending: 1-11, and 17-25.
4. Claims allowed: None.
5. Claims rejected: 1-11, and 17-25.

C. CLAIMS ON APPEAL

Claims on appeal: 1-11, and 17-25.

IV. Status of Amendments

An Amendment after Final Action filed on May 21, 2008 has been entered, but as set forth in the Advisory Office Action mailed 05/30/08, has not overcome any of the Rejections.

V. Summary of Claimed Subject Matter

Independent claim 1 is annotated as follows with respect to the Specification and Drawings.

1. In a World Wide Web (Web) communication network [Web 60, Fig. 2, described in Specification on page 9, lines 14-21] with user access via a plurality of data processor controlled interactive receiving display stations for displaying received hypertext Web documents [display station 57, Fig. 2, described from page 9, line 29 through page 10, line 4], transmitted from source sites on the Web [hosted Web source site 63, Fig. 2, described on page 10, lines 5-14], including at least one display page [Source Web Page 65, Fig. 2, described on page 10, lines 14-21] containing text, images and a plurality of embedded hyperlinks [page 66 are copies of the source Web page 65, Fig. 2, described on page 10, lines 23-32] each hyperlink being user activatable to access and display a respective linked hypertext Web document from source sites on the Web, a system for controlling access activity from activated hyperlinks and their respective Web document source sites comprising:

means at said source sites [the host controlled source site referred to hereinabove is referenced in step 70, Fig. 3, as described on page 11, lines 14-16] for prioritizing said plurality of embedded hyperlinks in a Web document [steps 71 and 72, Fig. 3, described on page 11, lines 16-23, and each prioritized link is tagged with an HTML tag indicative of its priority level, step 73, described on page 11, lines 23-24]; and

means for applying said prioritization in the determination of the order in which the Web documents linked to the activated embedded hyperlinks in said Web document are to be accessed [Fig. 3, steps 76 and 77, described from page 11, line 30 through page 12, line 4].

Independent claim 7 is annotated as follows with respect to the Specification and Drawings.

7. In a World Wide Web (Web) communication network [Web 60, Fig. 2, described in Specification on page 9, lines 14-21] with user access via a plurality of data processor controlled interactive receiving display stations for displaying received hypertext Web documents [display station 57, Fig. 2, described from page 9, line 29 through page 10, line 4], transmitted from source sites on the Web [hosted Web source site 63, Fig. 2, described on page 10, lines 5-14], including at least one display page [Source Web Page 65, Fig. 2, described on page 10, lines 14-21] containing text, images and a plurality of embedded hyperlinks [page 66 are copies of the source Web page 65, Fig. 2, described on page 10, lines 23-32], each hyperlink being user activatable to access and display a respective linked hypertext Web document from source sites on the Web, a method for controlling access activity from activated hyperlinks and their respective Web document source sites comprising:

prioritizing said plurality of embedded hyperlinks [steps 71 and 72, Fig. 3, described on page 11, lines 16-23, and each prioritized link is tagged with an HTML tag indicative of its priority level, step 73, described on page 11, lines 23-24] in a source Web document at a source site [the host controlled source site referred to hereinabove is referenced in step 70, Fig. 3, as described on page 11, lines 14-16]; and

applying said prioritization in the determination of the order in which the Web documents linked to the activated

embedded hyperlinks in said Web document are to be accessed [Fig. 3, steps 76 and 77, described from page 11, line 30 through page 12, line 4].

Independent claim 17 is annotated as follows with respect to the Specification and Drawings.

17. A World Wide Web (Web) hypertext document including at least one display page [Source Web Page 65 provides Web page copy 66, Fig. 2, described on page 10, lines 14-21] containing text, images and a plurality of embedded hyperlinks, [page 66 are copies of the source Web page 65, Fig. 2, described on page 10, lines 23-32] each hyperlink being user activatable to access and display a respective linked hypertext Web document from source sites on the Web further including:

a hypertext markup language tag [Fig. 3, step 73 describes the tags] associated with each embedded hyperlink indicating the priority of each hyperlink [Fig. 3, steps 76 and 77, described from page 11, line 30 through page 12, line 4] in the determination of the order in which the Web documents linked to the activated embedded hyperlinks in said Web document are to be accessed.

Independent claim 21 is annotated as follows with respect to the Specification and Drawings.

21. A computer useable medium having a computer readable program stored thereon [page 6, lines 25-29 with respect to Fig. 1 wherein Application Programs 40, including the application program of the present invention, are stored in the RAM storage medium of the host web site server during operations. The RAM storage medium is a computer usable medium on which the computer program is stored] for controlling access activity from activated hyperlinks and their respective Web document source sites in a World Wide Web (Web) communication network [Web 60, Fig. 2, described in Specification on page 9, lines 14-21] with user access via a plurality of data processor controlled interactive receiving display stations for displaying received hypertext Web documents [display station 57, Fig. 2, described from page 9, line 29 through page 10, line 4], transmitted from source sites on the Web [hosted Web source site 63, Fig. 2, described on page 10, lines 5-14], including at least one display page [Source Web Page 65, Fig. 2, described on page 10, lines 14-21] containing text, images and a plurality of embedded hyperlinks [page 66 are copies of the source Web page 65, Fig. 2, described on page 10, lines 23-32], each hyperlink being user activatable to access and display a respective linked hypertext Web document from source sites on the Web, wherein the computer readable program [with respect to Fig. 3, the computer program is described generally from page 11, line 9 through page 12, line 14 referring to steps 70-79, Fig. 3] when executed on a computer causes the computer to:

prioritize said plurality of embedded hyperlinks in a

source Web document at a source site [Fig. 3, steps 72 and 73 described on page 11, lines 20-24]; and

apply said prioritization in the determination of the order in which the Web documents linked to the activated embedded hyperlinks in said Web document are to be accessed [Fig. 3, steps 76 and 77, described from page 11, line 30 through page 12, line 4].

Dependent claim 3, argued separately is annotated as follows with respect to the Specification and Drawings.
3. The Web communication network of claim 1 wherein said each of said Web documents further includes a hypertext markup language tag [Fig. 3, step 73 describes the tags] associated with each of said prioritized hyperlinks [Fig. 3, steps 76 and 77, described from page 11, line 30 through page 12, line 4] indicative of the priority level of the associated hyperlink.

Dependent claim 8, argued separately is annotated as follows with respect to the Specification and Drawings.
8. The Web communication method of claim 7 further including the step of:

inserting in each of said Web documents a plurality of hypertext markup language tags [Fig. 3, step 73 describes the tags] each associated with each of said prioritized hyperlinks [Fig. 3, steps 76 and 77, described from page 11, line 30 through page 12, line 4] and indicative of the priority level of the associated hyperlink.

Dependent claim 22, argued separately is annotated as follows with respect to the Specification and Drawings.
22. The computer useable medium of claim 21, wherein the computer program further causes the computer to:

insert in each of said Web documents a plurality of hypertext markup language tags [Fig. 3, step 73 describes the tags] each associated with each of said prioritized hyperlinks [Fig. 3, steps 76 and 77, described from page 11, line 30 through page 12, line 4] and indicative of the priority level of the associated hyperlink.

VI. Grounds of Rejection to be Reviewed on Appeal

A. Claims 1-6 and 17-25 are rejected under 35 USC 101 because the invention is directed to non-statutory subject matter.

B. Claims 1-11, and 17-25 are rejected under 35 USC 102(b) as being anticipated by Pogrebisky et al. (US 5,958,008).

VII. Argument

A. The claimed invention of claims 1-6 and 17-25 is directed to statutory subject matter under 35 USC 101

Rejection of Claims 1-6 under 35 USC 101

Because the Diehr decision (45 US 185-186) is cited, Examiner appears to be contending that claims 1-6 merely claim the program as recorded on the computer readable components necessary to make the program run. Applicants take issue with such an interpretation and submit that claims 1-6 read upon a tangible Web site (the host server source site 63, Fig. 2, which is described in the Specification on page 10, lines 14-25, and which may be maintained by business organization for communication and sales to the public. The host Web site 63, Fig. 2 is a tangible business structure with supporting database storage DB1.....DBN, supported by SERVERS where Source Web Pages 66 are stored so that copies of the Web Pages 65 may be made for distribution as requested by users at remote display

stations 57. This is not some abstract concept but rather a tangible and conventional business organization structure for distribution over the World Wide Web.

Examiner appears to be arguing that terms such as "means" or "system" may in certain situations be used to describe purely software elements. However, in the present claims 1-6, in view of the hardware structure described in the specification as described above, these terms will be clearly understood to define such hardware.

Rejection of Claims 17-20 under 35 USC 101

In making the rejection, Examiner appears to be putting the Web pages of the present invention in a category where the word or language content of the Web page merely imparts a function described on the page. Applicants submit that this is not the case with the presently defined and claimed Web page. There is a tangible result provided. There is clearly a practical application in the technological arts i.e. the Web page has embedded hyperlinks which the user, who receives the Web page, may interactively select to receive further Web documents. Thus, the embedded hyperlinks function to interconnect the basic received Web page to other Web documents dependent on the interactive selections by the user. In such Web pages, the hyperlinks are prioritized, through associated markup language tags, to provide optimum Web operating efficiency in the distribution of the linked Web documents selected by users. The prioritization of the respective tags associated with each hyperlink will affect the order of Web document accessing in

Web document distribution. These hyperlinks with associated tags in a Web document are clearly not just non-function descriptive material.

In addition, Examiner appears to be arguing with respect to independent claim 17, that the claim only relates to a prioritization tag associated with each hyperlink in an HTML document. Examiner notes that the preamble to the claim should not be given any in determining patentability over the prior art. While this is true, it does not mean that the preamble can not be used as it is in claim 17 to set forth the whole Web HTML document structure within which a markup language tag defining prioritization of the hyperlink is associated with each hyperlink.

The Rejection of claims 21-25 under 35 USC 101

These claims have now been amended so that they now define the subject matter as a computer usable medium on which the defined computer readable program is stored, wherein the program when executed on a computer causes the computer to carry out the steps defined in the stored program. Support for this definition of the subject matter may be found in the present specification on page 6, lines 25-29 with respect to Fig. 1 wherein Application Programs 40, including the application program of the present invention, are stored in the RAM storage medium of the host web site server during operations. The RAM storage medium is a computer usable medium on which the computer program is stored.

In this connection, Examiner notes (in the Advisory Action of 05/30/08) that despite the embodiment showing

storage of the program on RAM, a "computer useable medium" can still read on carrier waves. Applicants submit that the terminology "computer useable medium having a computer readable program stored thereon" is the language which the Manual of Patent Office Examining Procedure (MPEP) finds to be acceptable in defining program products.

In view of the foregoing, it is submitted that claims 1-6 and 17-25 are directed to statutory subject matter under 35 USC 101.

B. Rejection of claims 1-11 and 17-25 under 35 USC 102(b) as being anticipated by Pogrebisky (US5,958,008) is respectfully traversed.

In order to reject under 35 USC 102, the reference must expressly or impliedly teach every element of the invention without modification. Pogrebisky fails to teach this.

The present invention relates to the creation of Web documents at a source of such documents on the Web. **Independent Claims 1, 7 and 21** claim the combination, or subject matter corresponding to the combination:

"..prioritizing said plurality of embedded hyperlinks in a source Web document at a source site; and

applying said prioritization in the determination of the order in which the Web documents linked to the activated embedded hyperlinks in said Web document are to be accessed."

Pogrebisky provides programs for the analysis of Web sites i.e. sources of Web document. In carrying out such analysis, Pogrebisky provides tools including tools for sorting functions at the Web site. With respect to the step

of prioritizing, Examiner cites col 16, line 59 to col 17, line 7 in Pogrebisky. In this section, the reference mentions sorting by the number of links to each of a plurality of nodes at the Web site. In other words, there is a sort by the count of the number of links to each node in the Web site.

It is submitted that this sorting is not prioritizing hyperlinks in a source Web document. Rather, it is a sort of activity at nodes within a Web site or source. In addition, the sorting is not prioritizing. For, example, a function can sort by colors without prioritizing according to colors. Likewise, one can sort by numbers without prioritizing according to the numbers. Prioritizing requires that the sorted items then be ranked according to the sort.

Thus, in addition, the Examiner does not cite any element or function in Pegrobisky which discloses the claimed:

"applying said prioritization in the determination of the order in which the Web documents linked to the activated embedded hyperlinks in said Web document are to be accessed."

The Pegrobisky patent appears to have little to do with the priority of the order in which the Web documents linked to hyperlinks embedded in Web documents are to be accessed.

Claims 17-20 are distinguished over Pegrobisky under 35 USC 102(b)

These claims include the element:

"..a hypertext markup language tag associated with each embedded hyperlink indicating the priority of each hyperlink in the determination of the order in which the Web documents linked to the activated embedded hyperlinks in said Web document are to be accessed."

For this teaching, Examiner, in addition to what has been discussed hereinabove, cites col 6, lines 52-65 in Pegrobisky. All this section includes is a general description of HTML document tags which are generally used for control purposes. There is nothing in this description of tags which discloses markup language tags having anything to do with prioritization for any purpose.

Thus, here again with respect to independent claim 17, and the dependent claims 18-20, it is submitted Pegrobisky fails to fulfill the requirements of an anticipatory reference under 35 USC 102(b) which requires that the reference must expressly or impliedly teach every element of the invention without modification.

Dependent Claims 3, 8, and 22 have further Patentability under 35 USC 102(b)

In addition, it is noted that each of dependent claims 3-6, 8-11, and 22-25 are submitted to be patentable for all of the reasons set forth hereinabove for the patentability of independent claims 1, 7, and 21 from which these claims respectively depend. In addition, dependent claims 3-8, 8-11, and 22-25 are further patentable over Pegrobisky because they include hypertext markup language tag associated with

each embedded hyperlink indicating the priority of each hyperlink in the determination of the order in which the Web documents linked to the activated embedded hyperlinks in said Web document are to be accessed. As set forth above with respect to claims 17-20, Pegrobisky fails to disclose these elements.

Conclusion

In view of the foregoing, it is submitted that:

Claims 1-6 and 17-25 are patentable under 35 USC 101 because the invention is directed to statutory subject matter; and

Claims 1-11, and 17-25 are patentable under 35 USC 102(b) as the claims are not anticipated by Pogrebisky et al. (US 5,958,008).

Accordingly, the Board of Appeals is respectfully requested to reverse the Final Rejection and find claims 1-11, and 17-25 in condition for allowance

Respectfully submitted,

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VIII. Claims Appendix

1. In a World Wide Web (Web) communication network with user access via a plurality of data processor controlled interactive receiving display stations for displaying received hypertext Web documents, transmitted from source sites on the Web, including at least one display page containing text, images and a plurality of embedded hyperlinks, each hyperlink being user activatable to access and display a respective linked hypertext Web document from source sites on the Web, a system for controlling access activity from activated hyperlinks and their respective Web document source sites comprising:

means at said source sites for prioritizing said plurality of embedded hyperlinks in a Web document; and

means for applying said prioritization in the determination of the order in which the Web documents linked to the activated embedded hyperlinks in said Web document are to be accessed.

2. The Web communication network of claim 1 further including:

a document source site network comprising:

a plurality of the source sites from which said Web documents linked to said prioritized hyperlinks are accessed; and

a service manager server system for accessing Web documents linked to said prioritized hyperlinks;

wherein said means for applying said prioritization is at said service manager server system.

3. The Web communication network of claim 1 wherein said each of said Web documents further includes a hypertext markup language tag associated with each of said prioritized hyperlinks indicative of the priority level of the associated hyperlink.

4. The Web communication network of claim 3 further including means associated with a source site of a Web document enabling an interactive user at the source Web site to designate a priority level for each of the hyperlinks.

5. The Web communication network of claim 4 wherein said means for designating a priority level for each of said hyperlinks are enabled to change any previously designated priority levels for said hyperlinks.

6. The Web communication network of claim 5 wherein said changes in any previously designated priority levels are applicable to the priority levels in previously distributed copies of said Web document.

7. In a World Wide Web (Web) communication network with user access via a plurality of data processor controlled interactive receiving display stations for displaying received hypertext Web documents, transmitted from source sites on the Web, including at least one display page containing text, images and a plurality of embedded hyperlinks, each hyperlink being user activatable to access and display a respective linked hypertext Web document from source sites on the Web, a method for controlling access activity from activated hyperlinks and their respective Web document source sites comprising:

prioritizing said plurality of embedded hyperlinks in a source Web document at a source site; and

applying said prioritization in the determination of the order in which the Web documents linked to the activated embedded hyperlinks in said Web document are to be accessed.

8. The Web communication method of claim 7 further including the step of:

inserting in each of said Web documents a plurality of hypertext markup language tags each associated with each of said prioritized hyperlinks and indicative of the priority level of the associated hyperlink.

9. The Web communication method of claim 8 further including the step of enabling an interactive user at the source site of a Web document to designate a priority level for each of the hyperlinks.

10. The Web communication method of claim 9 wherein said step of designating a priority level for each of said hyperlinks may be applied to change any previously designated priority levels for said hyperlinks.

11. The Web communication method of claim 10 wherein said step of changing any previously designated priority levels is applicable to change the priority levels in previously distributed copies of said Web document.

17. A World Wide Web (Web) hypertext document including at least one display page containing text, images and a plurality of embedded hyperlinks, each hyperlink being user activatable to access and display a respective linked hypertext Web document from source sites on the Web further including:

a hypertext markup language tag associated with each embedded hyperlink indicating the priority of each hyperlink in the determination of the order in which the Web documents linked to the activated embedded hyperlinks in said Web document are to be accessed.

18. The Web document of claim 17 wherein said Web document is a source Web document at a source Web site.

19. The source Web document of claim 18 further including means for changing the priority indication in each of said tags.

20. The source Web document of claim 19 further including means for applying changes in any previously designated priority levels to the priority levels in previously distributed copies of said source Web document.

21. A computer useable medium having a computer readable program stored thereon for controlling access activity from activated hyperlinks and their respective Web document source sites in a World Wide Web (Web) communication network with user access via a plurality of data processor controlled interactive receiving display stations for displaying received hypertext Web documents, transmitted from source sites on the Web, including at least one display page containing text, images and a plurality of embedded hyperlinks, each hyperlink being user activatable to access and display a respective linked hypertext Web document from source sites on the Web, wherein the computer readable program when executed on a computer causes the computer to:

prioritize said plurality of embedded hyperlinks in a source Web document at a source site; and

apply said prioritization in the determination of the order in which the Web documents linked to the activated embedded hyperlinks in said Web document are to be accessed.

22. The computer useable medium of claim 21, wherein the computer program further causes the computer to:

insert in each of said Web documents a plurality of hypertext markup language tags each associated with each of said prioritized hyperlinks and indicative of the priority level of the associated hyperlink.

23. The computer useable medium of claim 22, wherein the computer program further causes the computer to enable an interactive user at the source site of a Web document to designate a priority level for each of the hyperlinks.

24. The computer useable medium of claim 23, wherein the computer program further causes the computer to enable said designating a priority level for each of said hyperlinks by changing any previously designated priority levels for said hyperlinks.

25. The computer useable medium of claim 23, wherein the computer program further causes the computer to change priority levels of previously designated priority levels so as to change the priority levels in previously distributed copies of said Web document.

IX. Evidence Appendix

There was no evidence presented in the prosecution of the present Application.

X. Related Proceedings Appendix

There are no proceedings related to the present proceedings.